

REMARKS

In response to the Office Action dated February 6, 2006, claims 15-34 have been canceled without prejudice or disclaimer, new claims 35-46 have been added. No new matter has been added. Reexamination and reconsideration of the claims as requested is respectfully requested.

In paragraph 5 on page 10 of the Office Action, the drawings have been objected to as not showing every feature of the invention specified in the claims under 37 CFR 1.83(a). The claim features mentioned by the Examiner, i.e. diaphragm, analysis chip, variable pore radius, and gas/liquid medium arrangement, have been deleted from the claims.

In paragraph 6 on page 10 of the Office Action, the drawings have been objected to "because element 405 does not designate a lower end and 404 is not an arrow". The reference sign "405" has been deleted and an arrow has been added to the reference sign "404". A replacement sheet is enclosed. Applicant respectfully requests the Examiner withdraw the objection to the drawings.

In paragraph 2 on page 4 of the Office Action, claims 15-34 are rejected under 35 U.S.C. § 112 first paragraph as failing to comply with the written description requirement. The Applicant respectfully traverses this rejection. It is believed that all claims comply with 35 U.S.C. § 112. Applicant respectfully requests the Examiner withdraw the rejection of claims 15-34 under 35 U.S.C. § 112 first paragraph.

In paragraph 4 on page 6 of the Office Action, claims 15-25 are rejected under 35 U.S.C. § 112 second paragraph for being indefinite for failing to particularly point out and distinctly claim the subject matter which is regarded as the invention. The Applicant

respectfully traverses this rejection. It is believed that all claims comply with 35 U.S.C. § 112. Applicant respectfully requests the Examiner withdraw the rejection of claims 15-25 under 35 U.S.C. § 112 second paragraph.

In paragraph 8 on page 11 of the Office Action, claims 15-18 and 22-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Pelc, et al.* in view of *Tajima* (U.S. 5,895,631) The Applicant respectfully traverses this rejection.

The various rejections, objections, and the Examiner's comments have been considered. Consequently, the existing claims have been cancelled, and a new claim set, consisting of claims 35-46, has been entered. Support for the subject-matter of the newly entered claims can be found in paragraph 0095 of the specification.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claim 35 (similarly claim 41) now recite, *inter alia*:

a pipette, said pipette having a diaphragm containing at least one pore of a given radius;

a pump, said pump producing a reduced pressure in said pipette wherein said reduced pressure does **not** go below a critical pressure **at which the surface tension of a liquid** present at said at least one pore of said diaphragm **would be overcome**.

(Emphasis added.)

The Examiner stated on page 14 that:

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the modified teachings of *Pelc et al.* by providing the chip analysis pipetting system of *Tajima* in the modified device in order to perform simultaneous analysis of each sample which provides for time reduction in processing a large number of samples.

Pelc et al. does not specify using a gas as a first medium and liquid as a second medium.

However it would have been obvious to one of ordinary skill in the art at the time of the invention recognize that a gas such as air may be aspirated at a reduced pressure without taking up a liquid in order to allow the air/gas to permit the drying of a capillary after it has been washed.

The inventive concept of the invention of the instant application is to utilize the capillary effect of a liquid to ensure that only the medium to be analyzed, whether in liquid form or gas form, is taken up into the capillary device. This is achieved by using a porous diaphragm or membrane, having a liquid at the pore(s) of the diaphragm or membrane, and to use only a reduced pressure in the pipette not going below a critical pressure at which the surface tension of a liquid present at the pore(s) would be overcome. Three elements have to be present and interact: a porous diaphragm or membrane, a liquid at the pore(s), and a reduced pressure not exceeding the surface tension of the liquid present at the pore(s).

None of the applied reference suggests nor contains the relevant teaching which would suggest using the capillary effect for a capillary apparatus or method for analysing a medium in general, or the three elements in particular. Therefore, the invention as recited in claims 35 and 41 of the instant application is believed not to be obvious over *Pelc et al.* in view of *Tajima*.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 35 and 41 are, therefore, believed to be patentable over the *Pelc et al.* in view of *Tajima* and because claims 36-40 are ultimately dependent on claim 35 and because claims 42-46 are ultimately dependent on claim 41, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 35-46 are solicited.

CONCLUSION

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. The amendments clarify the patentable invention without adding new subject matter. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

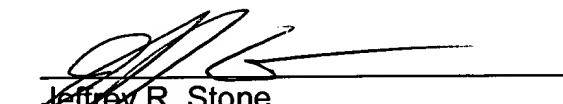
If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Jeffrey R. Stone at 952 253-4130.

Respectfully submitted,

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